

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

IN RE: DA VINCI SURGICAL ROBOT ) Lead Case No.:  
ANTITRUST LITIGATION, ) 3:21-cv-03825-VC

-----)  
THIS DOCUMENT RELATES TO: )  
ALL CASES )  
-----)

SURGICAL INSTRUMENT SERVICE )  
COMPANY, INC., ) Case No.  
 ) 3:21-cv-03496-VC

Plaintiff, )

vs. )

INTUITIVE SURGICAL, INC., )

Defendant. )  
-----)

\*\*\*HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY\*\*\*

REMOTE PROCEEDINGS OF THE  
DEPOSITION OF STAN HAMILTON  
FRIDAY, NOVEMBER 4, 2022

REPORTED BY NANCY J. MARTIN  
CSR. NO. 9504, RMR, RPR  
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Friday, November 4, 2022

- - -

Remote Deposition of STAN HAMILTON  
beginning at 11:14 a.m., before Nancy J. Martin, a  
Registered Merit Reporter, Certified Shorthand  
Reporter. All parties appeared remotely.

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ALSO PRESENT:  
WILL DAVIS, LEGAL VIDEOGRAPHER

1 MR. CORRIGAN: Okay. So I'm going to -- I'm  
2 sorry to the court reporter -- well, actually, I don't  
3 need to know because I am going to reveal this  
4 document, and it looks like this is going to be  
5 Plaintiff's Document 204. So I'm marking this as  
6 Document 204.

7 Q. Do you see that Mr. Hamilton?

8 (Deposition Exhibit 204 was marked for  
9 identification.)

10 THE WITNESS: I see a 204. I presume I click  
11 on either the document name or the number?

12 BY MR. CORRIGAN:

13 Q. Yeah.

14 A. Never mind. It's coming up now. I see it  
15 now.

16 Q. I just hit the magic button saying, "Show  
17 this document to the witness."

18 Do you recognize that document?

19 A. Oh, yes.

20 Q. What document is that?

21 A. This is the -- this is the later -- this is  
22 July '22 -- I don't know, but this was the letter that  
23 we received that Anthony Lee sent to walk back this --  
24 the term I would use, the earlier E-mails that we were  
25 looking at that were in that chain, after other people

1 in the FDA, including higher level people got  
2 involved, then we received this letter to kind of walk  
3 back a term decision, implying that FDA had made a  
4 regulatory determination, which they had not.

5 Q. In your mind, how does this E-mail affect all  
6 the other E-mails that you read earlier with  
7 Mr. Lazerow?

8 A. It negates anything that they were appearing  
9 to do with respect to a regulatory determination or  
10 regulatory enforcement, and that was made clear in the  
11 last meeting that the timing was before this, and that  
12 included some fairly high people in the FDA. And it  
13 was clear that the walk back was occurring and that  
14 only an informal assessment was made. The materials  
15 were limited, meaning that those statements that were  
16 made by Dr. Lee saying, "I think you didn't do this or  
17 that" were based on not even actually seeing any of  
18 that information, and informal communications do not  
19 represent formal position and do not bind or otherwise  
20 obligate or commit the agency to the views expressed,  
21 meaning there was nothing for Rebotix to appeal at  
22 this time.

23 So what had happened is we were going to  
24 appeal this because we felt like we had some very,  
25 very good reasons to appeal what Anthony Lee was

1 saying, but again, he was just a -- not a particularly  
2 high level person. He was saying a lot of things that  
3 then got walked back, and you can see the result.

4 MR. CORRIGAN: Thank you, Mr. Hamilton.  
5 That's all the questions I have for now.

6 THE WITNESS: Okay.

7

8 FURTHER EXAMINATION

9 BY MR. LAZEROW:

10 Q. Mr. Hamilton, by the time that Rebotix  
11 received this E-mail that we're looking at on  
12 Plaintiff's Exhibit 204 from Mr. Lee, had Rebotix  
13 decided that it was proceeding with plans to submit a  
14 510(k) application?

15 A. There was discussion of it. There was no  
16 decision, and there was no actual activity to -- to  
17 submit.

18 Q. After this E-mail, am I right, Rebotix  
19 decided that it would proceed with plans to submit a  
20 510(k) application?

21 MR. ERWIG: Objection to form.

22 THE WITNESS: No.

23 BY MR. LAZEROW:

24 Q. Can you look please, sir, at Document No. 9  
25 in your folder of hard copy documents, marked Document